THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.17206 of 1997

Dated:05.07.2006

Between:

S.Mallaiah.

…Petitioners

and

The Vice-Chairman & Managing Director, A.P.State Handloom Weavers Co-op. Society Limited (APCO), Central Office, Narayanaguda, Hyderabad, and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

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ORDER:

The petitioner filed the instant writ petition challenging the action of the first respondent in issuing notice of superannuation to him without clearing his temporary promotion as recommended by the Departmental Promotion Committee to the post of Chief Officer Grade-I in the Andhra Pradesh State Handloom Weavers Co-operative Society Limited (APCO), and for a consequential direction to the first respondent to fix the pay of the petitioner in the category of Chief Officer Grade-I with effect from 16.12.1993 by giving temporary promotion to him.

The case of the petitioner in brief is that he was appointed in 1963 as Technical Assistant in APCO, and subsequently, in the year 1994 he was appointed as Chief Marketing Officer. It is his case that as directed by the second respondent, Departmental Promotion Committee was constituted, which considered the case of the petitioner on 13.05.1994 and recommended him for promotion to the post of Chief Officer (category-I), duly granting relaxation of five years minimum length of service by the Commissioner and Director of Handlooms and Textiles. The petitioner alleges that the second respondent sent a communication relaxing the minimum requisite qualification up to three years and in spite of the same, his case was not considered for promotion. In the meanwhile, the first respondent issued the impugned notice dated 14.02.1997 informing that he would be retiring from the service of APCO on 31.07.1997. Aggrieved by the same, the present writ petition is filed.

Respondent Nos.2 and 3 have filed a counter affidavit. The allegation that it is at the instance of the second respondent that the Departmental Promotion Committee was constituted is denied. It is further stated that on a request made by the first respondent, the second respondent issued proceedings on 02.06.1996 granting relaxation by reducing the minimum period of service to three years as one time measure in respect of those candidates who are in service as on 07.07.1976. The petitioner also was given relaxation, but as he was not having minimum educational qualifications for promotion to the post of

Chief Officer, by order dated 10.07.1997, the first respondent informed that further relaxation cannot be granted in respect of the petitioner.

Learned Counsel for the petitioner strenuously contends that in at least three cases, the second respondent granted relaxation in accordance with the APCO byelaws even in respect of the educational qualifications, but the same benefit is denied to the petitioner. He also submits that when the Departmental Promotion Committee recommended the case of the petitioner for granting of relaxation, the second respondent ought to have granted relaxation of educational qualifications.

The first respondent has not filed any counter affidavit. However, the learned Counsel for the first respondent submits that APCO addressed a letter to the first respondent seeking relaxation of the minimum period of service, which was granted for all the eligible Officers. He further points out that though the petitioner's name was recommended even for granting of relaxation of educational qualifications, the same was not accorded, and therefore, the petitioner could not be promoted.

Admittedly, the petitioner retired from service with effect from 31.07.1997, and he is not in service. Though he was one of the candidates considered by the Departmental Promotion Committee for promotion to the post of Chief Officer Grade-I, he was not promoted, as admittedly, he did not possess the minimum educational qualifications. In spite of the fact that the second respondent relaxed the minimum period of service from five years to three years, the petitioner could not comply with the educational qualifications, and therefore, the grievance of the petitioner is not justified. It is now well settled that the competent authority can under no circumstances relax the essential educational qualifications prescribed for a post. Further, no person can claim promotion as a matter of right even if such person is not qualified as per the relevant rules. Admittedly, the petitioner does not possess the minimum educational qualifications of being a Graduate, and therefore, the writ petition is misconceived.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

05.07.2006
vs